

1 **SECTION 18.** 281.346 of the statutes is created to read:

2 **281.346 Water conservation, reporting, and supply regulation; after**
3 **the compact takes effect. (1) DEFINITIONS.** In this section:

4 (d) “Community within a straddling county” means any city, village, or town
5 that is not a straddling community and that is located outside the Great Lakes basin
6 but wholly within a county that lies partly within the Great Lakes basin.

7 (dm) “Compact” means the Great Lakes—St. Lawrence River Basin Water
8 Resources Compact under s. 281.343.

9 (dr) “Compact’s effective date” means the effective date of the compact under
10 s. 281.343 (9) (d).

11 (e) “Consumptive use” means a use of water that results in the loss of or failure
12 to return some or all of the water to the basin from which the water is withdrawn due
13 to evaporation, incorporation into products, or other processes.

14 (g) “Cumulative impacts” means the impacts on the Great Lakes basin
15 ecosystem that result from incremental effects of all aspects of a withdrawal,
16 diversion, or consumptive use in addition to other past, present, and reasonably
17 foreseeable future withdrawals, diversions, and consumptive uses regardless of who
18 undertakes the other withdrawals, diversions, and consumptive uses, including
19 individually minor but collectively significant withdrawals, diversions, and
20 consumptive uses taking place over a period of time.

21 (h) “Diversion” means a transfer of water from the Great Lakes basin into a
22 watershed outside the Great Lakes basin, or from the watershed of one of the Great
23 Lakes into that of another, by any means of transfer, including a pipeline, canal,
24 tunnel, aqueduct, channel, modification of the direction of a water course, tanker

1 ship, tanker truck, or rail tanker except that “diversion” does not include any of the
2 following:

3 1. The transfer of a product produced in the Great Lakes basin or in the
4 watershed of one of the Great Lakes, using waters of the Great Lakes basin, out of
5 the Great Lakes basin or out of that watershed.

6 2. The transmission of water within a line that extends outside the Great Lakes
7 basin as it conveys water from one point to another within the Great Lakes basin if
8 no water is used outside the Great Lakes basin.

9 3. The transfer of bottled water from the Great Lakes basin in containers of
10 5.7 gallons or less.

11 (hm) “Divert” means to transfer water from the Great Lakes basin into a
12 watershed outside the Great Lakes basin, or from the watershed of one of the Great
13 Lakes into that of another, by any means of transfer, including a pipeline, canal,
14 tunnel, aqueduct, channel, modification of the direction of a water course, tanker
15 ship, tanker truck, or rail tanker except that “divert” does not include any of the
16 following:

17 1. To transfer a product produced in the Great Lakes basin or in the watershed
18 of one of the Great Lakes, using waters of the Great Lakes basin, out of the Great
19 Lakes basin or out of that watershed.

20 2. To transmit water within a line that extends outside the Great Lakes basin
21 as it conveys water from one point to another within the Great Lakes basin if no
22 water is used outside the Great Lakes basin.

23 3. To transfer bottled water from the Great Lakes basin in containers of 5.7
24 gallons or less.

1 (i) “Environmentally sound and economically feasible water conservation
2 measures” means those measures, methods, or technologies for efficient water use
3 and for reducing water loss and waste or for reducing the amount of a withdrawal,
4 consumptive use, or diversion that are, taking into account environmental impact,
5 the age and nature of equipment and facilities involved, the processes employed, the
6 energy impacts, and other appropriate factors, all of the following:

- 7 1. Environmentally sound.
8 2. Reflective of best practices applicable to the water use sector.
9 3. Technically feasible and available.
10 4. Economically feasible and cost-effective based on an analysis that considers
11 direct and avoided economic and environmental costs.

12 (j) “Facility” means an operating plant or establishment providing electricity
13 to the public or carrying on any manufacturing activity, trade, or business on one site,
14 including similar plants or establishments under common ownership or control
15 located on contiguous properties.

16 (je) “Great Lakes basin” means the watershed of the Great Lakes and the St.
17 Lawrence River upstream from Trois—Rivieres, Quebec, within the jurisdiction of
18 the parties.

19 (ji) “Great Lakes basin ecosystem” means the interacting components of air,
20 land, water, and living organisms, including humans, within the Great Lakes basin.

21 (jj) “Great Lakes council” means the Great Lakes—St. Lawrence River Basin
22 Water Resources Council, created under s. 281.343 (2) (a).

23 (jm) “Intrabasin transfer” means the transfer of water from the watershed of
24 one of the Great Lakes into the watershed of another of the Great Lakes.

25 (n) “Party” means a state that is a party to the compact.

(nm) Notwithstanding s. 281.01 (9), “person” means an individual or other entity, including a government or a nongovernmental organization, including any scientific, professional, business, nonprofit, or public interest organization or association that is neither affiliated with nor under the direction of a government.

(o) “Product” means something produced by human or mechanical effort or through agricultural processes and used in manufacturing, commercial, or other processes or intended for intermediate or ultimate consumers, subject to all of the following:

1. Water used as part of the packaging of a product is part of the product.

2. Other than water used as part of the packaging of a product, water that is used primarily to transport materials in or out of the Great Lakes basin is not a product or part of a product.

3. Except as provided in subd. 1., water that is transferred as part of a public or private supply is not a product or part of a product.

4. Water in its natural state, such as in lakes, rivers, reservoirs, aquifers, or water basins, is not a product.

(pm) “Public water supply” means water distributed to the public through a physically connected system of treatment, storage, and distribution facilities that serve a group of largely residential customers and that may also serve industrial, commercial, and other institutional customers.

(ps) “Reasonable water supply alternative” means a water supply alternative that is similar in cost to, and as environmentally sustainable and protective of public health as, the proposed new or increased diversion and that does not have greater adverse environmental impacts than the proposed new or increased diversion.

1 (q) “Regional body” means the body consisting of the governors of the parties
2 and the premiers of Ontario and Quebec, Canada, or their designees as established
3 by the Great Lakes—St. Lawrence River Basin Sustainable Water Resources
4 Agreement.

5 (qd) “Regional declaration of finding” means a declaration of finding issued by
6 the regional body under s. 281.343 (4h) (e).

7 (qm) “Regional review” means review by the regional body as described in s.
8 281.343 (4h).

9 (r) “Source watershed” means the watershed from which a withdrawal
10 originates. If water is withdrawn directly from a Great Lake or from the St.
11 Lawrence River, then the source watershed is the watershed of that Great Lake or
12 the watershed of the St. Lawrence River, respectively. If water is withdrawn from
13 the watershed of a stream that is a direct tributary to a Great Lake or a direct
14 tributary to the St. Lawrence River, then the source watershed is the watershed of
15 that Great Lake or the watershed of the St. Lawrence River, respectively.

16 (t) “Straddling community” means any city, village, or town that, based on its
17 boundary existing as of the compact’s effective date, is partly within the Great Lakes
18 basin or partly within the watersheds of 2 of the Great Lakes and that is wholly
19 within any county that lies partly or completely within the Great Lakes basin.

20 (tm) “Straddling county” means a county that lies partly within the Great
21 Lakes basin.

22 (u) “Technical review” means a thorough analysis and evaluation conducted to
23 determine whether a proposal that is subject to regional review under this section
24 meets the criteria for approval under sub. (4), (5), or (6).

1 (w) “Water dependent natural resources” means the interacting components of
2 land, water, and living organisms affected by the waters of the Great Lakes basin.

3 (wm) “Water loss” means the amount of water that is withheld from or not
4 returned to the basin from which it is withdrawn as a result of a diversion or
5 consumptive use or both.

6 (wp) “Water supply system,” when not preceded by “public,” means one of the
7 following:

8 1. Except as provided in subd. 2., the equipment handling water from the point
9 of intake of the water to the first point at which the water is used.

10 2. For a system for providing a public water supply, the equipment from the
11 point of intake of the water to first point at which the water is distributed.

12 (wr) “Water utility” means a public utility, as defined in s. 196.01 (5), that
13 furnishes water.

14 (x) “Waters of the Great Lakes basin” means the Great Lakes and all streams,
15 rivers, lakes, connecting channels, and other bodies of water, including tributary
16 groundwater, within the Great Lakes basin.

17 (y) “Withdraw” means to take water from surface water or groundwater.

18 (z) “Withdrawal” means the taking of water from surface water or groundwater,
19 including the taking of surface water or groundwater for the purpose of bottling the
20 water.

21 (zm) “Without adequate supplies of potable water” means lacking a water
22 supply that is economically and environmentally sustainable in the long term to
23 meet reasonable demands for a water supply in the quantity and quality that
24 complies with applicable drinking water standards, is protective of public health, is

1 available at a reasonable cost, and does not have adverse environmental impacts
2 greater than those likely to result from the proposed new or increased diversion.

3 (1m) APPLICABILITY. This section does not apply before the compact's effective
4 date.

5 (2) DETERMINATIONS CONCERNING APPLICABILITY OF REQUIREMENTS. (a) *Use of*
6 *surface water divide*. For the purposes of this section, the surface water divide is used
7 to determine whether a withdrawal or transfer of surface water or groundwater is
8 from the Great Lakes basin.

9 (b) *Diversions and withdrawals from more than one source*. For the purposes
10 of this section, the diversion or withdrawal of water from more than one source
11 within the Great Lakes basin to supply a single facility or public water supply system
12 is considered one diversion or withdrawal.

13 (c) *Water loss*. The department shall promulgate rules for determining the
14 amount of water loss from consumptive uses.

15 (d) *County boundaries*. For the purposes of sub. (1) (d), (t), and (tm), a county's
16 boundaries as of December 13, 2005, shall be used to determine whether a county lies
17 partly within the Great Lakes basin.

18 (e) *Baseline*. 1. The baseline for a withdrawal that is covered by a general
19 permit issued under s. 281.344 (4s) on the compact's effective date is the withdrawal
20 amount specified for the withdrawal in the database under s. 281.344 (4s) (i) on the
21 compact's effective date. The baseline for a withdrawal for which the department has
22 issued an individual permit under s. 281.344 (5) before the compact's effective date
23 is the withdrawal amount specified in the permit on the compact's effective date.

24 1m. If a person making a withdrawal that averages 100,000 gallons per day or
25 more in any 30-day period registered the withdrawal under s. 281.344 (3) (a) 1. and

1 reported as required under s. 281.344 (3) (e) and the department did not
2 automatically issue a notice of coverage under s. 281.344 (4s) (c) or an individual
3 permit under s. 281.344 (5) (c) for the withdrawal, the baseline for the withdrawal
4 is the amount determined under s. 281.344 (5m) for the withdrawal or, if the
5 department determines a different amount under sub. (4e), the amount determined
6 under sub. (4e).

7 2. The baseline water loss for a consumptive use for which the department has
8 specified an authorized base level of water loss under s. 281.35 (6) (a) 2. is the amount
9 of that authorized base level on the compact's effective date.

10 4. The baseline volume for a diversion for which the department has issued an
11 approval under s. 281.344 (3m) or (4) before the compact's effective date is the
12 interbasin transfer amount specified in the approval on the compact's effective date.

13 6. The department shall provide a list of the baseline volumes determined
14 under this paragraph to the Great Lakes council and the regional body no later than
15 12 months after the compact's effective date.

16 (em) *Change of ownership.* Regional review or Great Lakes council approval
17 is not required when there is a change of ownership of a water supply system that
18 withdraws, diverts, or consumptively uses waters of the Great Lakes basin unless
19 the new owner proposes a change that is otherwise subject to regional review or
20 Great Lakes council approval.

21 (f) *Hydrologic units.* The Lake Michigan and Lake Huron watershed shall be
22 considered to be a single hydrologic unit and watershed.

23 (g) *Public trust doctrine.* Nothing in this section may be interpreted to change
24 the application of the public trust doctrine under article IX, section 1, of the
25 Wisconsin Constitution or to create any new public trust rights.

1 **(3) STATEWIDE REGISTRATION AND REPORTING.** (a) Any person who proposes to
2 begin a withdrawal from the waters of the state using a water supply system that will
3 have the capacity to withdraw an average of 100,000 gallons per day or more in any
4 30-day period, to increase the capacity of a water supply system so that it will have
5 the capacity to withdraw an average of 100,000 gallons per day or more in any 30-day
6 period, or to begin a diversion shall register the withdrawal or diversion with the
7 department.

8 (b) A person to whom par. (a) applies shall register on a form prescribed by the
9 department and provide all of the following information:

- 10 1. The name and address of the registrant and the date of registration.
- 11 2. The locations and sources of the withdrawal or diversion.
- 12 3. The daily capacity of the withdrawal or diversion and the daily capacity to
13 withdraw or divert from each source.
- 14 4. An estimate of the volume of the withdrawal or diversion in terms of gallons
15 per day average in any 30-day period.
- 16 5. The uses made of the water.
- 17 6. The places at which the water is used.
- 18 7. The places at which any of the water is discharged.
- 19 8. Whether the water use is continuous or intermittent.
- 20 9. Whether the person holds a permit under s. 283.31.
- 21 10. Other information required by the department by rule.

22 (c) The department shall maintain a registry containing the information
23 provided under par. (b) and s. 281.344 (3) (b).

1 (cm) The department may consider domestic security concerns when
2 determining whether information regarding locations of withdrawals and diversions
3 contained in the registry under par. (c) may be released to the public.

4 (e) 1. Each person who makes a withdrawal from the waters of the state that
5 averages 100,000 gallons per day or more in any 30-day period or diverts any amount
6 and who has registered the withdrawal or diversion under par. (a) or s. 281.344 (3)
7 (a) shall annually report to the department the monthly volumes of withdrawal,
8 whether the person withdraws at least 1,000,000 gallons per day for 30 consecutive
9 days, and, if applicable, the volumes of diversion and, subject to par. (em), water loss
10 from consumptive use.

11 2. In addition to the information required under subd. 1., the department may,
12 by rule, create different reporting frequencies or require additional information from
13 a person who registers a withdrawal, or diversion under par. (a) or s. 281.344 (3) (a)
14 based upon the type or category of water use.

15 (em) If a person to whom par. (e) 1. applies provides any of the water that the
16 person withdraws to a public water supply system, the person who operates the
17 public water supply system, rather than the person who withdraws the water, shall
18 annually report to the department the volume of water loss from the consumptive use
19 of the water provided to the public water supply system.

20 (f) The department may require additional information under par. (b) 10. or (e)
21 2. only if the information is related to the purposes of the compact.

22 (4) DIVERSIONS. (a) *Prohibition.* Beginning on the compact's effective date, no
23 person may begin a diversion, except as authorized under par. (c), (d), or (e) or an
24 approval issued under s. 281.344 (4), and no person may increase the amount of a
25 diversion over the diversion amount specified in an approval under this subsection

1 or over the interbasin transfer amount specified in an approval issued under s.
2 281.344 (3m) or (4), except as authorized under par. (c), (d), or (e).

3 (b) *Application.* 1. A person who proposes to begin a diversion or to increase
4 the amount of a diversion under par. (c), (d), or (e) shall apply to the department for
5 approval.

6 2. A person may apply under subd. 1. for approval of a new or increased
7 diversion under par. (c) or (e) only if the person operates a public water supply system
8 that receives or would receive water from the new or increased diversion.

9 3. Operators of 2 or more public water supply systems may submit a joint
10 application under subd. 1. for a new or increased diversion under par. (c) or (e).

11 4. A person who applies under subd. 1. shall provide information about the
12 potential impacts of the diversion on the waters of the Great Lakes basin and water
13 dependent natural resources and any other information required by the department
14 by rule.

15 4m. If a person who applies under subd. 1. will not directly withdraw the water
16 proposed to be diverted, the person shall identify any entities that may withdraw the
17 water and provide evidence of support from each of those entities in the form of a
18 letter or resolution.

19 4p. If the person who applies under subd. 1. will not directly return the water
20 to the Great Lakes basin, the person shall identify any entities that may return the
21 water and provide evidence of support from each of those entities in the form of a
22 letter or resolution.

23 4s. If the proposal for which a person applies under subd. 1. is subject to the
24 exception standard under par. (f), the person shall provide documentation of how the
25 physical, chemical, and biological integrity of the receiving water under par. (f) 3. will

1 be protected and sustained as required under ss. 30.12, 281.15, and 283.31,
2 considering the state of the receiving water before the proposal is implemented and
3 considering potential adverse impacts due to changes in temperature and nutrient
4 loadings. If the receiving water is a surface water body that is tributary to one of the
5 Great Lakes, the person shall include a description of the flow of the receiving water
6 before the proposal is implemented, considering both low and high flow conditions.

7 5. If the proposal for which a person applies under subd. 1. is subject to the
8 exception standard under par. (f), the person shall provide an assessment of the
9 individual impacts of the proposal for the purposes of par. (f) 5. The person may also
10 include a cumulative impact assessment.

11 (bg) *Determinations.* 1. The department shall determine whether a proposal
12 under par. (b) is subject to par. (c) or (e) as follows:

13 a. If the proposal is to provide a public water supply within a single city, village,
14 or town, the proposal is subject to par. (c) or (e) based on the boundaries of that city,
15 village, or town.

16 b. If the proposal is to provide a public water supply within more than one city,
17 village, or town, any portion of the proposal that provides a public water supply
18 within a straddling community is subject to par. (c) and any portion of the proposal
19 that provides a public water supply within a community described in par. (e) 1.
20 (intro.) is subject to par. (e).

21 2. For the purposes of applying the requirements in pars. (c), (e), and (f) to a
22 proposal under par. (b), the department shall use, as appropriate, the current or
23 planned service area of the public water supply system receiving water under the
24 proposal. The planned service area is the service area of the system at the end of any

1 planning period authorized by the department in the approved water supply service
2 area plan under s. 281.348 that covers the public water supply system.

3 (c) *Straddling communities.* The department may approve a proposal under
4 par. (b) to begin a diversion, or to increase the amount of a diversion, to an area within
5 a straddling community but outside the Great Lakes basin or outside the source
6 watershed if the water diverted will be used solely for public water supply purposes
7 in the straddling community and all of the following apply:

8 1. An amount of water equal to the amount of water withdrawn from the Great
9 Lakes basin, less an allowance for consumptive use, will be returned to the source
10 watershed.

11 2. No surface water or groundwater from outside the source watershed will be
12 returned to the source watershed unless all of the following apply:

13 a. The returned water will be from a water supply or wastewater treatment
14 system that combines water from inside and outside the Great Lakes basin.

15 b. The returned water will be treated to meet applicable permit requirements
16 under s. 283.31 and to prevent the introduction of invasive species into the Great
17 Lakes basin.

18 c. The proposal maximizes the amount of water withdrawn from the Great
19 Lakes basin that will be returned to the source watershed and minimizes the amount
20 of water from outside the Great Lakes basin that will be returned to the source
21 watershed.

22 2m. The proposal is consistent with an approved water supply service area plan
23 under s. 281.348 that covers the public water supply system.

1 3. If the proposal would result from a new withdrawal or an increase in a
2 withdrawal that would average 100,000 gallons or more per day in any 90-day
3 period, the proposal meets the exception standard under par. (f).

4 4. If the proposal would result in a new water loss or an increase in a water loss
5 from consumptive use that would average 5,000,000 gallons or more per day in any
6 90-day period, all of the following apply:

7 a. The department conducts a technical review.

8 b. The department notifies the regional body as required in s. 281.343 (4h) (b)

9 1.

10 c. The proposal undergoes regional review.

11 d. The department considers the regional declaration of finding in determining
12 whether to approve the proposal.

13 (d) *Intrabasin transfer*. 1. The department may approve a proposal under par.
14 (b) for a new intrabasin transfer or an increase in an intrabasin transfer to which par.
15 (c) does not apply that would average less than 100,000 gallons per day in every
16 90-day period, if the proposal meets the applicable requirements under s. 30.18,
17 281.34, or 281.41 or, if those sections do not apply, any requirements specified by the
18 department by rule and, if the water will be used for public water supply purposes,
19 the proposal is consistent with an approved water supply service area plan under s.
20 281.348 that covers the public water supply system.

21 2. The department may approve a proposal under par. (b) for a new intrabasin
22 transfer or an increase in an intrabasin transfer to which par. (c) does not apply that
23 would average more than 100,000 gallons per day in any 90-day period with a new
24 water loss or an increase in water loss that would average less than 5,000,000 gallons
25 per day in every 90-day period, if all of the following apply:

1 a. The proposal meets the exception standard under par. (f), except that the
2 water may be returned to a watershed within the Great Lakes basin other than the
3 source watershed and par. (f) 3m. does not apply.

4 b. The applicant demonstrates that there is no feasible, cost-effective, and
5 environmentally sound water supply alternative within the watershed to which the
6 water will be transferred, including conservation of existing water supplies as
7 determined under par. (g).

8 c. If the water will be used for public water supply purposes, the proposal is
9 consistent with an approved water supply service area plan under s. 281.348 that
10 covers the public water supply system.

11 d. The department provides notice of the proposal to the other parties.

12 3. The department may approve a proposal under par. (b) for a new intrabasin
13 transfer or an increase in an intrabasin transfer to which par. (c) does not apply with
14 a new water loss or an increase in water loss that would average 5,000,000 gallons
15 per day or more in any 90-day period, if all of the following apply:

16 a. The proposal meets the exception standard under par. (f).

17 b. The applicant demonstrates that there is no feasible, cost-effective, and
18 environmentally sound water supply alternative within the watershed to which the
19 water will be transferred, including conservation of existing water supplies as
20 determined under par. (g).

21 c. If the water will be used for public water supply purposes, the proposal is
22 consistent with an approved water supply service area plan under s. 281.348 that
23 covers the public water supply system.

24 d. The department conducts a technical review.

e. The department notifies the regional body as required in s. 281.343 (4h) (b)

1.

f. The proposal undergoes regional review.

g. The department considers the regional declaration of finding in determining whether to approve the proposal.

h. The proposal is approved by the Great Lakes council.

(e) *Straddling counties.* 1. The department may approve a proposal under par. (b) for a new diversion or an increase in a diversion if the water diverted will be used solely for public water supply purposes in a community within a straddling county or, if a community is partly within a straddling county and partly within a county that lies entirely outside the Great Lakes basin, the water diverted will be used solely for public water supply purposes in the portion of the community that is within the straddling county and all of the following apply:

a. The community is without adequate supplies of potable water.

b. The proposal meets the exception standard under par. (f).

c. The proposal maximizes the amount of water withdrawn from the Great Lakes basin that will be returned to the source watershed and minimizes the amount of water from outside the Great Lakes basin that will be returned to the source watershed.

d. There is no reasonable water supply alternative within the watershed in which the community is located, including conservation of existing water supplies as determined under par. (g).

e. The proposal will not endanger the integrity of the Great Lakes basin ecosystem based upon a determination that the proposal will have no significant adverse impact on the Great Lakes basin ecosystem.

1 em. The proposal is consistent with an approved water supply service area plan
2 under s. 281.348 that covers the public water supply system.

3 f. The department conducts a technical review.

4 g. The department notifies the regional body as required in s. 281.343 (4h) (b)
5 1.

6 h. The proposal undergoes regional review.

7 i. The department considers the regional declaration of finding in determining
8 whether to approve the proposal.

9 j. The proposal is approved by the Great Lakes council.

10 2. In determining whether to approve a proposal under this paragraph, the
11 department shall give substantive consideration to whether the applicant provides
12 sufficient scientifically based evidence that the existing water supply is derived from
13 groundwater that is hydrologically interconnected to waters of the Great Lakes
14 basin. The department may not use a lack of hydrological connection to the waters
15 of the Great Lakes basin as a reason to disapprove a proposal.

16 (f) *Exception standard.* A proposal meets the exception standard if all of the
17 following apply:

18 1. The need for the proposed diversion cannot reasonably be avoided through
19 the efficient use and conservation of existing water supplies as determined under
20 par. (g).

21 2. The diversion is limited to quantities that are reasonable for the purposes
22 for which the diversion is proposed.

23 3. An amount of water equal to the amount of water withdrawn from the Great
24 Lakes basin will be returned to the source watershed, less an allowance for
25 consumptive use.

1 3m. The place at which the water is returned to the source watershed is as close
2 as practicable to the place at which the water is withdrawn, unless the applicant
3 demonstrates that returning the water at that place is one of the following:

- 4 a. Not economically feasible.
5 b. Not environmentally sound.
6 c. Not in the interest of public health.

7 4. No water from outside the Great Lakes basin will be returned to the source
8 watershed unless all of the following apply:

9 a. The returned water is from a water supply or wastewater treatment system
10 that combines water from inside and outside the Great Lakes basin.

11 b. The returned water will be treated to meet applicable permit requirements
12 under s. 283.31 and to prevent the introduction of invasive species into the Great
13 Lakes basin and the department has approved the permit under s. 283.31.

14 c. If the water is returned through a structure on the bed of a navigable water,
15 the structure is designed and will be operated to meet the applicable permit
16 requirements under s. 30.12 and the department has approved the permit under s.
17 30.12.

18 4m. If water will be returned to the source watershed through a stream
19 tributary to one of the Great Lakes, the physical, chemical, and biological integrity
20 of the receiving water under subd. 3. will be protected and sustained as required
21 under ss. 30.12, 281.15, and 283.31, considering the state of the receiving water
22 before the proposal is implemented and considering both low and high flow
23 conditions and potential adverse impacts due to changes in temperature and
24 nutrient loadings.

1 5. The diversion will result in no significant adverse individual impacts or
2 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin
3 or to water dependent natural resources, including cumulative impacts that might
4 result due to any precedent-setting aspects of the proposed diversion, based upon a
5 determination that the proposed diversion will not have any significant adverse
6 impacts on the sustainable management of the waters of the Great Lakes basin.

7 6. The applicant commits to implementing the applicable water conservation
8 measures under sub. (8) (d) that are environmentally sound and economically
9 feasible for the applicant.

10 7. The diversion will be in compliance with all applicable local, state, and
11 federal laws and interstate and international agreements, including the Boundary
12 Waters Treaty of 1909.

13 (g) *Conservation and efficient use of existing water supplies.* The department
14 shall promulgate rules specifying the requirements for an applicant for a new or
15 increased diversion subject to par. (f) to demonstrate the efficient use and
16 conservation of existing water supplies for the purposes of pars. (d) 2. b. and 3. b., (e)
17 1. d., and (f) 1., including requiring the applicant to document the water conservation
18 planning and analysis used to identify the water conservation and efficiency
19 measures that the applicant determined were feasible.

20 (i) *Diversion amount.* In an approval issued under this subsection or a
21 modification granted under this subsection to increase the amount of a diversion, the
22 department shall specify a diversion amount equal to the quantity of water that is
23 reasonable for the purposes for which the diversion is proposed.

24 **(4e)** DETERMINING WITHDRAWAL AMOUNTS FOR WITHDRAWALS WITH INTERIM
25 APPROVALS. (a) Before issuing automatic notice of coverage under a general permit

1 under sub. (4s) or an automatic individual permit under sub. (5) (c) for a withdrawal
2 from the Great Lakes basin that is covered by an interim approval under s. 281.344
3 (5m), the department shall determine a withdrawal amount for the withdrawal
4 under this subsection.

5 (b) 1. Except as provided in subds. 2. and 3e. and par. (f), the department shall
6 estimate the withdrawal amount for a withdrawal based on the maximum hydraulic
7 capacity of the most restrictive component in the water supply system used for the
8 withdrawal as of the compact's effective date, based on information available to the
9 department.

10 2. Except as provided in subd. 3e., if the department has issued an approval
11 under s. 30.12, 30.18, 281.34, or 281.41, or s. 281.17, 2001 stats., that is required for
12 a withdrawal and the approval contains a limit on the amount of water that may be
13 withdrawn, the department shall provide an estimate of the withdrawal amount
14 equal to the limit in the approval.

15 3e. If water is withdrawn through more than one water supply system to serve
16 a facility, the department shall determine the amount under subd. 1. for each of the
17 water supply systems to which subd. 2. does not apply and shall determine the
18 amount under subd. 2. for each of the water supply systems to which subd. 2. applies
19 and shall provide an estimate of the withdrawal amount that is equal to the sum of
20 the amounts determined for each of the water supply systems.

21 (c) The department shall provide the estimate under par. (b) for a withdrawal
22 to the person making the withdrawal.

23 (d) After receiving an estimate under par. (c), a person making a withdrawal
24 may provide the department with information relating to any of the following:

25 1. The components of the water supply system used for the withdrawal.

1 2. Seasonal variations in the amount of water supplied by the water supply
2 system.

3 3. Plans for expanding the capacity of the water supply system submitted to
4 the department no later than 2 years after the effective date of this subdivision
5 [revisor inserts date].

6 4. Amounts withdrawn during the 5 years before the year in which the person
7 submits the information.

8 5. Successful water conservation efforts by persons using the water that is
9 withdrawn.

10 6. Water loss from consumptive uses of similar types of users compared to the
11 water loss from consumptive use of persons using the water that is withdrawn.

12 7. Other relevant information.

13 (e) Except as provided in par. (f), the department shall determine the
14 withdrawal amount for a withdrawal based on the estimate under par. (b) and the
15 department's evaluation of any information provided under par. (d). The department
16 may not consider information provided by any other person.

17 (f) For a public water supply system that, on the effective date of this paragraph
18 [revisor inserts date], has approval under s. 281.41 to provide water from the
19 Great Lakes basin for public water supply purposes outside of the Great Lakes basin
20 and approval under s. 283.31 to return the associated wastewater to the Great Lakes
21 basin, the department shall determine the withdrawal amount to be the amount of
22 water necessary to provide water for public water supply purposes in the service
23 territory specified in the sewer service area provisions of the areawide water quality
24 management plan under s. 283.83 approved by the department before December 31,
25 2007, based on the population and related service projections in those provisions.

1 (g) The department's determination of a withdrawal amount under par. (e) or
2 (f) is not subject to administrative review under ch. 227 except at the request of the
3 person making the withdrawal.

4 (h) If 2 or more public water supply systems merge after the department
5 determines their withdrawal amounts under par. (e) and before the department
6 issues the initial individual permits under sub. (5) (c) for the systems, the
7 withdrawal amount for the new system is the sum of the amounts determined under
8 par. (e) for the individual systems.

9 (i) For the purposes of sub. (5) (f) 1. and 2., (h) 1. and 2., and (k) 1. and 2., and
10 (5e) (b) 1. and 2., and (c) 1., and 2., a withdrawal amount determined under this
11 subsection for a withdrawal is considered to be the withdrawal amount for the
12 withdrawal as of the compact's effective date.

13 **(4m) WATER USE PERMITS REQUIRED IN THE GREAT LAKES BASIN.** A person may not
14 make a withdrawal from the Great Lakes basin that averages 100,000 gallons per
15 day or more in any 30-day period unless the withdrawal is covered under a general
16 permit issued under sub. (4s) or s. 281.344 (4s), an individual permit issued under
17 sub. (5) or s. 281.344 (5), or an interim approval under s. 281.344 (5m), except as
18 provided in sub. (4s) (bm).

19 **(4s) GENERAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Department to*
20 *issue.* The department shall issue one or more general permits to cover withdrawals
21 from the Great Lakes basin that average 100,000 gallons per day or more in any
22 30-day period but that do not equal at least 1,000,000 gallons per day for any 30
23 consecutive days. The department shall include all of the following in a general
24 permit:

25 1. Reference to the database of withdrawal amounts under par. (i).

1 2. Requirements for estimating the amount withdrawn, monitoring the
2 withdrawal, if necessary, and reporting the results of the estimating and monitoring,
3 as provided in rules promulgated by the department.

4 3. Requirements for water conservation, as provided in rules promulgated by
5 the department under sub. (8) (d).

6 (am) *Term of general permit.* The term of a general permit issued under par.
7 (a) is 25 years.

8 (b) *General requirement.* A person who does not hold an individual permit
9 under sub. (5) may not make a withdrawal that averages 100,000 gallons per day or
10 more in any 30-day period, but that does not equal at least 1,000,000 gallons per day
11 for any 30 consecutive days, unless the withdrawal is covered under a general permit
12 issued under this subsection or s. 281.344 (4s), except as provided in par. (bm). A
13 person to whom the department has issued a notice of coverage under a general
14 permit shall comply with the general permit.

15 (bm) *Waiver.* The department may waive the requirement to obtain coverage
16 under a general permit for a person making a withdrawal that is covered by a permit
17 under s. 30.18 (2) (a).

18 (c) *Automatic notice of coverage for withdrawals with interim approvals.* The
19 department shall automatically issue a notice of coverage under a general permit to
20 a person who makes a withdrawal that is covered by an interim approval under s.
21 281.344 (5m), if the withdrawal averages 100,000 gallons per day or more in any
22 30-day period but does not equal at least 1,000,000 gallons per day for any 30
23 consecutive days. If necessary, the department may request additional information
24 before issuing a notice under this paragraph. The department shall issue a notice
25 under this paragraph no later than one year after the compact's effective date. In the

1 notice provided under this paragraph for a withdrawal, the department shall specify
2 a withdrawal amount equal to the withdrawal amount determined under sub. (4e)
3 for the withdrawal.

4 (d) *Coverage under general permit for new or increased withdrawals.* 1. A
5 person who proposes to begin a withdrawal from the Great Lakes basin that will
6 average 100,000 gallons per day or more in any 30-day period, or to increase an
7 existing withdrawal so that it will average 100,000 gallons per day or more in any
8 30-day period, but who does not propose to withdraw at least 1,000,000 gallons per
9 day for any 30 consecutive days, shall apply to the department for coverage under
10 a general permit, unless the person applies for an individual permit under sub. (5).
11 In the application, the person shall provide the information required by the
12 department by rule.

13 2. After receiving an application under subd. 1., the department shall, within
14 the time limit established by the department by rule, determine whether the
15 withdrawal qualifies for coverage under a general permit or notify the applicant of
16 any additional information needed to determine whether the withdrawal qualifies
17 for coverage under a general permit.

18 3. Except as provided in subd. 3m., if the department determines that a
19 withdrawal qualifies for coverage under a general permit and the department has
20 issued any approvals that are required for the withdrawal under s. 30.12, 30.18,
21 281.34, or 281.41 or s. 281.17, 2001 stats., the department shall issue a notice of
22 coverage. In the notice, the department shall specify a withdrawal amount that is,
23 except as provided in subd. 3e., equal to the smallest of the following amounts:

24 a. The maximum hydraulic capacity of the most restrictive component of the
25 water supply system used for the withdrawal for which the person has approval

1 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
2 under one of those provisions is not required for the most restrictive component of
3 the water supply system, the maximum hydraulic capacity of the most restrictive
4 component that the person proposes to use in the water supply system.

5 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
6 stats., specifies a maximum amount of water that may be withdrawn, that amount.

7 3e. If water is withdrawn through more than one water supply system to serve
8 a facility, the department shall determine the smallest amount under subd. 3. a. or
9 b. for each of the water supply systems and shall specify a withdrawal amount that
10 is equal to the sum of the amounts determined for each of the water supply systems.

11 3m. a. The department may not approve an application under subd. 1. for a
12 withdrawal for the purpose of providing water to a public water supply system that
13 serves a population of more than 10,000 unless the withdrawal is covered by an
14 approved water supply service area plan under s. 281.348.

15 b. The department may not approve an application under subd. 1. for a
16 withdrawal for the purpose of providing water to a public water supply system that
17 is covered by an approved water supply service area plan under s. 281.348, unless
18 the withdrawal is consistent with the water supply service area plan.

19 c. If the department approves an application under subd. 1. for a withdrawal
20 for the purpose of providing water to a public water supply system that is covered by
21 an approved water supply service area plan under s. 281.348, the department shall
22 issue a notice of coverage. In the notice of coverage the department shall specify a
23 withdrawal amount that is equal to the withdrawal amount in the water supply
24 service area plan.

1 4. If the department determines that a withdrawal does not qualify for coverage
2 under a general permit, the department shall notify the applicant in writing of the
3 reason for that determination.

4 (dm) *Requiring individual permit.* The department may require a person who
5 is making or proposes to make a withdrawal that averages 100,000 gallons per day
6 or more in any 30-day period, but that does not equal at least 1,000,000 gallons per
7 day for any 30 consecutive days, to obtain an individual permit under sub. (5) if the
8 withdrawal is located in a groundwater protection area, as defined in s. 281.34 (1)
9 (a), or a groundwater management area designated under s. 281.34 (9).

10 (e) *Increase in withdrawal amount.* 1. If a person making a withdrawal that
11 is covered under a general permit issued under this subsection or s. 281.344 (4s)
12 proposes to increase the amount of the withdrawal over the withdrawal amount
13 specified in the database under par. (i) for the withdrawal, but does not propose to
14 withdraw at least 1,000,000 gallons per day for any 30 consecutive days, the person
15 shall apply to the department for a modification of the withdrawal amount.

16 3. Except as provided in subd. 3m., if the department has issued any approvals
17 that are required for modifying the withdrawal under s. 30.12, 30.18, 281.34, or
18 281.41 or s. 281.17, 2001 stats., the department shall modify the withdrawal amount
19 to an amount that is, except as provided in subd. 3e., equal to the smallest of the
20 following amounts:

21 a. The maximum hydraulic capacity of the most restrictive component of the
22 water supply system used for the withdrawal for which the person has approval
23 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
24 under one of those provisions is not required for the most restrictive component of

1 the water supply system, the maximum hydraulic capacity of the most restrictive
2 component that the person proposes to use in the water supply system.

3 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
4 stats., specifies a maximum amount of water that may be withdrawn, that amount.

5 3e. If water is withdrawn through more than one water supply system to serve
6 a facility, the department shall determine the smallest amount under subd. 3. a. or
7 b. for each of the water supply systems and shall specify a withdrawal amount that
8 is equal to the sum of the amounts determined for each of the water supply systems.

9 3m. a. The department may not approve an application under subd. 1. for a
10 withdrawal for the purpose of providing water to a public water supply system that
11 serves a population of more than 10,000 unless the withdrawal is covered by an
12 approved water supply service area plan under s. 281.348.

13 b. The department may not approve an application under subd. 1. for a
14 withdrawal for the purpose of providing water to a public water supply system that
15 is covered by an approved water supply service area plan under s. 281.348, unless
16 the withdrawal is consistent with the water supply service area plan.

17 c. If the department approves an application under subd. 1. for a withdrawal
18 for the purpose of providing water to a public water supply system that is covered by
19 an approved water supply service area plan under s. 281.348, the department shall
20 issue a notice of coverage. In the notice of coverage the department shall specify a
21 withdrawal amount that is equal to the withdrawal amount in the water supply
22 service area plan.

23 (f) *Term of coverage.* Coverage under a general permit ends on the date that
24 the term of the general permit under par. (am) ends.

1 (g) *Redetermination.* A person to whom the department has issued a notice of
2 coverage under a general permit issued under this subsection or s. 281.344 (4s) shall
3 apply to the department for redetermination of coverage under a new general permit
4 issued under this subsection at least 180 days before the end of the term of the
5 current general permit if the person intends to continue to withdraw from the Great
6 Lakes basin an average of 100,000 gallons per day or more in any 30-day period but
7 does not intend to withdraw at least 1,000,000 gallons per day for any 30 consecutive
8 days. If the person is in substantial compliance with the current general permit and
9 the withdrawal qualifies for coverage under the new general permit, the department
10 shall issue a notice of coverage under the new general permit.

11 (h) *Suspension and revocation.* After an opportunity for a hearing, the
12 department may suspend or revoke coverage under a general permit issued under
13 this subsection or s. 281.344 (4s) for cause, including obtaining coverage under the
14 permit by misrepresentation or failure to disclose material facts or substantially
15 violating the terms of the permit.

16 (i) *Database.* The department shall maintain a database of the withdrawal
17 amounts for all withdrawals that are covered under general permits issued under
18 this subsection and s. 281.344 (4s).

19 **(5) INDIVIDUAL WATER USE PERMITS FOR GREAT LAKES BASIN.** (a) *Requirement.* A
20 person may not make a withdrawal from the Great Lakes basin that equals at least
21 1,000,000 gallons per day for any 30 consecutive days unless the withdrawal is
22 covered by an individual permit issued under this subsection or s. 281.344 (5). A
23 person to whom the department has issued an individual permit shall comply with
24 the individual permit.

1 (b) *Content of individual permits.* The department shall include all of the
2 following in an individual permit:

3 1. A withdrawal amount as determined under par. (d) 3., 3e., or 3m., (g) 3., 3e.,
4 or 3m., or (j) 3., 3e., or 3m., sub. (4e), or s. 281.344 (4e) or (5) (d) 3., 3e., or 3m. or (e)
5 3., 3e., or 3m.

6 2. Provisions for estimating and, if necessary, monitoring substantial increases
7 in water loss resulting from increases in withdrawal amounts during the term of a
8 permit and reporting the results of the estimating and monitoring, as provided in
9 rules promulgated by the department.

10 3. Requirements for estimating the amount withdrawn, monitoring the
11 withdrawal, if necessary, and reporting the results of the estimating and monitoring,
12 as provided in rules promulgated by the department.

13 4. Requirements for water conservation, as provided in rules promulgated by
14 the department under sub. (8) (d).

15 5. Limits on the location and dates or seasons of the withdrawal and on the
16 allowable uses of the water, as provided in rules promulgated by the department.

17 5m. If a decision-making standard under sub. (5m) or (6) applies to the
18 withdrawal, any limit on the amount of the withdrawal necessary to ensure
19 compliance with the decision-making standard.

20 6. Conditions on any diversion approved under sub. (4) made by the person
21 making the withdrawal.

22 6m. If s. 281.35 (4) applies to the withdrawal, the matters under s. 281.35 (6)
23 (a).

24 7. If the withdrawal is from a surface water body tributary to one of the Great
25 Lakes and would result in a water loss of more than 95 percent of the amount of water

1 withdrawn, conditions that ensure that the withdrawal does not cause significant
2 adverse environmental impact.

3 (c) *Automatic issuance of individual permits for withdrawals with interim*
4 *approvals.* The department shall automatically issue an individual permit to a
5 person who makes a withdrawal from the Great Lakes basin that is covered by an
6 interim approval under s. 281.344 (5m), if the withdrawal equals at least 1,000,000
7 gallons per day for any 30 consecutive days. If necessary, the department may
8 request additional information before issuing a permit under this paragraph. The
9 department shall issue a permit under this paragraph no later than one year after
10 the compact's effective date. In the permit, the department shall specify a
11 withdrawal amount equal to the withdrawal amount determined under sub. (4e) for
12 the withdrawal.

13 (d) *Initial individual permit.* 1. A person who proposes to begin a withdrawal
14 from the Great Lakes basin that will equal at least 1,000,000 gallons per day for any
15 30 consecutive days or to modify an existing withdrawal so that it will equal at least
16 1,000,000 gallons per day for any 30 consecutive days shall apply to the department
17 for an individual permit.

18 2. After receiving an application under subd. 1., the department shall, within
19 the time limit established by the department by rule, determine whether to approve
20 the application or notify the applicant of any additional information needed to
21 determine whether to approve the application.

22 3. Except as provided in subd. 3m., if the department approves an application
23 under subd. 1. and the department has issued any approvals that are required for
24 the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the
25 department shall issue an individual permit. In the permit, the department shall

1 specify a withdrawal amount that is, except as provided in subd. 3e., equal to the
2 smallest of the following amounts:

3 a. The maximum hydraulic capacity of the most restrictive component of the
4 water supply system used for the withdrawal for which the person has approval
5 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
6 under one of those provisions is not required for the most restrictive component of
7 the water supply system, the maximum hydraulic capacity of the most restrictive
8 component that the person proposes to use in the water supply system.

9 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
10 stats., specifies a maximum amount of water that may be withdrawn, that amount.

11 c. Any limit on the amount of the withdrawal necessary to ensure compliance
12 with a decision-making standard applicable under par. (e) or (f).

13 3e. If water is withdrawn through more than one water supply system to serve
14 a facility and subd. 3. c. does not apply, the department shall determine the smallest
15 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
16 a withdrawal amount that is equal to the sum of the amounts determined for each
17 of the water supply systems.

18 3m. If the department approves an application under subd. 1. for a withdrawal
19 for the purpose of providing water to a public water supply system that is covered by
20 an approved water supply service area plan under s. 281.348, the department shall
21 issue an individual permit. In the permit, the department shall specify a withdrawal
22 amount that is equal to the withdrawal amount in the water supply service area
23 plan.

24 4. If the department disapproves an application under subd. 1., the department
25 shall notify the applicant in writing of the reason for the disapproval.

1 (dm) *Consistency with water supply plans.* 1. The department may not approve
2 an application under par. (d) 1. for a withdrawal for the purpose of providing water
3 to a public water supply system that serves a population of more than 10,000 unless
4 the public water supply system is covered by an approved water supply service area
5 plan under s. 281.348.

6 2. The department may not approve an application under par. (d) 1. for the
7 purpose of providing water to a public water supply system that is covered by an
8 approved water supply service area plan under s. 281.348 unless the withdrawal is
9 consistent with the water supply service area plan.

10 (e) *Standards for approval of certain unpermitted withdrawals.* 1. Except as
11 provided in par. (dm), the department may not approve an application under par. (d)
12 1. for a new withdrawal that will equal at least 1,000,000 gallons per day for any 30
13 consecutive days, or for an existing withdrawal that is not covered by a general
14 permit under sub. (4s) or s. 281.344 (4s) and that is proposed to be modified so that
15 it will equal at least 1,000,000 gallons per day for any 30 consecutive days, but to
16 which subd. 2. does not apply, unless the withdrawal meets the state
17 decision-making standard under sub. (5m).

18 2. Except as provided in subd. 3. or par. (dm), the department may not approve
19 an application under par. (d) 1. for a new withdrawal that will equal at least
20 10,000,000 gallons per day for any 30 consecutive days, or for an existing withdrawal
21 that is not covered by a general permit under sub. (4s) or s. 281.344 (4s) and that is
22 proposed to be modified so that it will equal at least 10,000,000 gallons per day for
23 any 30 consecutive days, unless the withdrawal meets the compact decision-making
24 standard under sub. (6).

1 3. A person who submits an application under par. (d) 1., to which subd. 2.
2 would otherwise apply, may choose to demonstrate, using procedures specified in
3 rules promulgated by the department, the water loss that will result from the
4 withdrawal. If the person demonstrates that the water loss would average less than
5 5,000,000 gallons per day in every 90-day period, the state decision-making
6 standard under sub. (5m), rather than the compact decision-making standard under
7 sub. (6), applies to the withdrawal.

8 (f) *Standards for approval of withdrawals covered by general permits.* 1.
9 Except as provided in par. (dm), the department may not approve an application
10 under par. (d) 1. for a withdrawal that is covered under a general permit under sub.
11 (4s) or s. 281.344 (4s) if the applicant proposes to modify the withdrawal so that it
12 equals 1,000,000 or more gallons per day for any 30 consecutive days over the
13 withdrawal amount as of the date that the department issued the current notice of
14 coverage under the general permit or as of the compact's effective date, whichever
15 is later, and if subd. 2. does not apply, unless the withdrawal meets the state
16 decision-making standard under sub. (5m).

17 2. Except as provided in subd. 3. or par. (dm), the department may not approve
18 an application under par. (d) 1. for a withdrawal that is covered under a general
19 permit under sub. (4s) or s. 281.344 (4s) if the applicant proposes to modify the
20 withdrawal so that it equals 10,000,000 or more gallons per day for any 30
21 consecutive days over the withdrawal amount as of the date that the department
22 issued the current notice of coverage under the general permit or as of the compact's
23 effective date, whichever is later, unless the withdrawal meets the compact
24 decision-making standard under sub. (6).

1 3. A person who submits an application under par. (d) 1., to which subd. 2.
2 would otherwise apply, may choose to demonstrate, using procedures specified in
3 rules promulgated by the department, the water loss that will result from the
4 increase in the withdrawal over the withdrawal amount as of the later of the dates
5 under subd. 2. If the person demonstrates that the resulting increase in water loss
6 would average less than 5,000,000 gallons per day in every 90-day period, the state
7 decision-making standard under sub. (5m), rather than the compact
8 decision-making standard under sub. (6), applies to the increase in the withdrawal.

9 (g) *Modification of individual permit for increased withdrawal.* 1. If a person
10 making a withdrawal that is covered under an individual permit issued under this
11 subsection or s. 281.344 (5) proposes to increase, during the term of the permit, the
12 amount of the withdrawal over the withdrawal amount specified in the permit, the
13 person shall apply to the department for a modification of the permit to increase the
14 withdrawal amount.

15 2. After receiving an application under subd. 1., the department shall, within
16 the time limit established by the department by rule, determine whether to approve
17 the application for modification of the permit or notify the applicant of any additional
18 information needed to determine whether to approve the application.

19 3. Except as provided in subd. 3m., if the department approves an application
20 under subd. 1. and the department has issued any approvals that are required for
21 modifying the withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
22 stats., the department shall modify the individual permit. In the modified permit,
23 the department shall specify a withdrawal amount that is, except as provided in
24 subd. 3e., equal to the smallest of the following amounts:

1 a. The maximum hydraulic capacity of the most restrictive component of the
2 water supply system used for the withdrawal for which the person has approval
3 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
4 under one of those provisions is not required for the most restrictive component of
5 the water supply system, the maximum hydraulic capacity of the most restrictive
6 component that the person proposes to use in the water supply system.

7 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
8 stats., specifies a maximum amount of water that may be withdrawn, that amount.

9 c. Any limit on the amount of the withdrawal necessary to ensure compliance
10 with a decision-making standard applicable under par. (e) or (f).

11 3e. If water is withdrawn through more than one water supply system to serve
12 a facility and subd. 3. c. does not apply, the department shall determine the smallest
13 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
14 a withdrawal amount that is equal to the sum of the amounts determined for each
15 of the water supply systems.

16 3m. If the department approves an application under subd. 1. for a withdrawal
17 for the purpose of providing water to a public water supply system that is covered by
18 an approved water supply service area plan under s. 281.348, the department shall
19 modify the individual permit. In the modified permit, the department shall specify
20 a withdrawal amount that is equal to the withdrawal amount in the water supply
21 service area plan.

22 4. If the department disapproves an application under subd. 1., the department
23 shall notify the applicant in writing of the reason for the disapproval.

24 (gm) *Consistency with water supply plans.* 1. The department may not approve
25 an application under par. (g) 1. for a withdrawal for the purpose of providing water

1 to a public water supply system that serves a population of more than 10,000 unless
2 the public water supply system is covered by an approved water supply service area
3 plan under s. 281.348.

4 2. The department may not approve an application under par. (g) 1. for a
5 withdrawal for the purpose of providing water to a public water supply system that
6 is covered by an approved water supply service area plan under s. 281.348 unless the
7 withdrawal is consistent with the water supply service area plan.

8 (h) *Standards for approval of certain modifications.* 1. Except as provided in
9 par. (gm), the department may not approve an application under par. (g) 1., if the
10 person proposes to increase the amount of the withdrawal so that it equals 1,000,000
11 or more gallons per day for any 30 consecutive days over the withdrawal amount as
12 of the beginning of the current permit term, the compact's effective date, or the date
13 that the department issued a modified permit for the withdrawal if the modification
14 was subject to the state decision-making standard under sub. (5m) or the compact
15 decision-making standard under sub. (6), whichever is latest, and if subd. 2. does not
16 apply, unless the increased withdrawal meets the state decision-making standard
17 under sub. (5m).

18 2. Except as provided in subd. 3. or par. (gm), the department may not approve
19 an application under par. (g) 1., if the person proposes to increase the amount of the
20 withdrawal so that it equals at least 10,000,000 gallons per day for any 30
21 consecutive days over the withdrawal amount as of the beginning of the current
22 permit term, the compact's effective date, or the date that the department issued a
23 modified permit for the withdrawal if the modification was subject to the compact
24 decision-making standard under sub. (6), whichever is latest, unless the withdrawal
25 meets the compact decision-making standard under sub. (6).

1 3. A person who submits an application under par. (g) 1., to which subd. 2.
2 would otherwise apply, may choose to demonstrate, using procedures specified in
3 rules promulgated by the department, the water loss that will result from the
4 increase in the withdrawal over the withdrawal amount as of the latest of the dates
5 under subd. 2. If the person demonstrates that the resulting increase in water loss
6 would average less than 5,000,000 gallons per day in every 90-day period, the state
7 decision-making standard under sub. (5m), rather than the compact
8 decision-making standard under sub. (6), applies to the increase in the withdrawal.

9 (i) *Term of permit.* The term of an individual permit is 10 years.

10 (j) *Reissuance.* 1. A person to whom the department has issued an individual
11 permit under this subsection or s. 281.344 (5) shall apply to the department for
12 reissuance of the individual permit at least 180 days before the end of the term of the
13 permit if the person intends to continue to withdraw from the Great Lakes basin at
14 least 1,000,000 gallons per day for any 30 consecutive days.

15 2. After receiving an application under subd. 1., the department shall, within
16 the time limit established by the department by rule, determine whether to approve
17 the application or notify the applicant of any additional information needed to
18 determine whether to approve the application.

19 3. Except as provided in subd. 3m., if the department approves an application
20 under subd. 1., determines that the person is in substantial compliance with the
21 current individual permit, and has issued any approvals that are required for the
22 withdrawal under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., the
23 department shall reissue the individual permit. In the permit, the department shall
24 specify a withdrawal amount that is equal to the amount in the current permit,
25 except that, if the person proposes in the application to increase the amount of the

1 withdrawal, the department shall specify a withdrawal amount that is, except as
2 provided in subd. 3e., equal to the smallest of the following amounts:

3 a. The maximum hydraulic capacity of the most restrictive component of the
4 water supply system used for the withdrawal for which the person has approval
5 under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001 stats., or, if an approval
6 under one of those provisions is not required for the most restrictive component of
7 the water supply system, the maximum hydraulic capacity of the most restrictive
8 component that the person proposes to use in the water supply system.

9 b. If an approval under s. 30.12, 30.18, 281.34, or 281.41 or s. 281.17, 2001
10 stats., specifies a maximum amount of water that may be withdrawn, that amount.

11 c. Any limit on the amount of the withdrawal necessary to ensure compliance
12 with a decision-making standard applicable under par. (e) or (f).

13 3e. If water is withdrawn through more than one water supply system to serve
14 a facility and subd. 3. c. does not apply, the department shall determine the smallest
15 amount under subd. 3. a. or b. for each of the water supply systems and shall specify
16 a withdrawal amount that is equal to the sum of the amounts determined for each
17 of the water supply systems.

18 3m. If the department approves an application under subd. 1. for a withdrawal
19 for the purpose of providing water to a public water supply system that is covered by
20 an approved water supply service area plan under s. 281.348 and determines that
21 the person is in substantial compliance with the current individual permit, the
22 department shall reissue the individual permit. In the permit, the department shall
23 specify a withdrawal amount that is equal to the withdrawal amount in the water
24 supply service area plan.

1 4. If the department disapproves an application under subd. 1., the department
2 shall notify the applicant in writing of the reason for the disapproval.

3 (jm) *Consistency with water supply plans; reissuance.* 1. The department may
4 not approve an application under par. (j) 1. for a withdrawal for the purpose of
5 providing water to a public water supply system that serves a population of more
6 than 10,000 if the person proposes to increase the amount of the withdrawal over the
7 amount in the current permit, unless the public water supply system is covered by
8 an approved water supply service area plan under s. 281.348.

9 2. The department may not approve an application under par. (j) 1. for a
10 withdrawal for the purpose of providing water to a public water supply system that
11 is covered by an approved water supply service area plan under s. 281.348 unless the
12 withdrawal is consistent with the water supply service area plan.

13 (k) *Standards for reissuance in certain cases.* 1. Except as provided in par. (jm),
14 the department may not approve an application under par. (j) 1., if the person
15 proposes in the application to increase the amount of the withdrawal so that it equals
16 1,000,000 or more gallons per day for any 30 consecutive days over the withdrawal
17 amount as of the beginning of the current permit term, the compact's effective date,
18 or the date that the department issued a modified permit for the withdrawal if the
19 modification was subject to the state decision-making standard under sub. (5m) or
20 the compact decision-making standard under sub. (6), whichever is latest, and if
21 subd. 2. does not apply, unless the increased withdrawal meets the state
22 decision-making standard under sub. (5m).

23 2. Except as provided in subd. 3. or par. (jm), the department may not approve
24 an application under par. (j) 1., if the person proposes in the application to increase
25 the amount of the withdrawal so that it equals at least 10,000,000 gallons per day

1 for any 30 consecutive days over the withdrawal amount as of the beginning of the
2 current permit term, the compact's effective date, or the date that the department
3 issued a modified permit for the withdrawal if the modification was subject to the
4 compact decision-making standard under sub. (6), whichever is latest, unless the
5 withdrawal meets the compact decision-making standard under sub. (6).

6 3. A person who submits an application under par. (j) 1., to which subd. 2. would
7 otherwise apply, may choose to demonstrate, using procedures specified in rules
8 promulgated by the department, the water loss that will result from the increase in
9 the withdrawal over the withdrawal amount as of the latest of the dates under subd.
10 2. If the person demonstrates that the resulting increase in water loss would average
11 less than 5,000,000 gallons per day in every 90-day period, the state
12 decision-making standard under sub. (5m), rather than the compact
13 decision-making standard under sub. (6), applies to the increase in the withdrawal.

14 (L) *Prior notice.* Beginning no later than 60 months after the compact's
15 effective date, if a proposal for which approval is required under this subsection will
16 result in a new water loss or an increase in a water loss that will average more than
17 5,000,000 gallons per day in any 90-day period, the department shall provide the
18 other parties and the provinces of Ontario and Quebec, Canada, with detailed notice
19 of the proposal and an opportunity to comment on the proposal. The department
20 shall provide a response to any comment received under this paragraph. The
21 department may not grant an approval under this subsection until at least 90 days
22 after the day on which it provided notice under this paragraph.

23 (m) *Regional review.* If a majority of the members of the regional body request
24 regional review of a proposal described in s. 281.343 (4h) (a) 6. for a withdrawal and
25 the department determines under s. 281.343 (4h) (b) 1. that the proposal is subject

1 to regional review, the department shall conduct a technical review of the proposal
2 and submit the proposal for regional review. The department may not determine
3 under s. 281.343 (4h) (b) 1. that the proposal is subject to regional review unless the
4 proposal will result in a water loss that will average more than 5,000,000 gallons per
5 day in any 90-day period. If the department submits the proposal for regional
6 review, the department may not act on the proposal until the proposal has undergone
7 regional review and the department has considered the regional declaration of
8 finding in determining whether to approve the proposal or until 90 days after the
9 department submits the proposal for regional review, whichever is sooner.

10 (n) *Information to be provided.* A person who submits an application under par.
11 (d) 1., (g) 1., or (j) 1. shall provide the information required by the department by rule.
12 If a decision-making standard under sub. (5m) or (6) applies, the person shall
13 provide information about the potential impacts of the withdrawal on the waters of
14 the Great Lakes basin and water dependent natural resources. If the compact
15 decision-making standard under sub. (6) applies, the person shall provide an
16 assessment of the individual impacts of the proposal for the purposes of sub. (6) (b).
17 The person may also include a cumulative impact assessment.

18 (o) *Departmental modifications.* After an opportunity for a hearing, the
19 department may modify a permit issued under this subsection as necessary to ensure
20 that a withdrawal complies with any applicable requirement under sub. (5m) or (6).

21 (p) *Suspension and revocation.* The department may suspend or revoke a
22 permit issued under this subsection or s. 281.344 (5) for cause, including obtaining
23 the permit by misrepresentation or failure to disclose material facts or substantially
24 violating the terms of the permit.

1 (q) *Transfer of control.* A permit is not transferable to any person except after
2 notice to the department. A person who proposes to assume control over a permitted
3 withdrawal shall file with the department a permit application and a statement of
4 acceptance of the permit. The department may require modification or revocation
5 and reissuance of the permit to change the name of the permittee.

6 **(5e)** REQUIREMENTS FOR WATER SUPPLY SERVICE AREA PLANS FOR PUBLIC WATER
7 SUPPLY SYSTEMS IN THE GREAT LAKES BASIN. (a) *Unpermitted withdrawals.* 1.
8 Beginning on the compact's effective date, the department may not approve a water
9 supply service area plan under s. 281.348 that provides for a new withdrawal from
10 the Great Lakes basin of at least 1,000,000 gallons per day for any 30 consecutive
11 days, or for modification of an existing withdrawal that is not covered by a general
12 permit under sub. (4s) or s. 281.344 (4s) so that it will equal at least 1,000,000 gallons
13 per day for any 30 consecutive days, but to which subd. 2. does not apply, unless the
14 withdrawal meets the state decision-making standard under sub. (5m).

15 2. Beginning on the compact's effective date, except as provided in subd. 3., the
16 department may not approve a water supply service area plan under s. 281.348 that
17 provides for a new withdrawal from the Great Lakes basin of at least 10,000,000
18 gallons per day for any 30 consecutive days, or for modification of an existing
19 withdrawal that is not covered by a general permit under sub. (4s) or s. 281.344 (4s)
20 so that it will equal at least 10,000,000 gallons per day for any 30 consecutive days,
21 unless the withdrawal meets the compact decision-making standard under sub. (6).

22 3. A person who submits a water supply service area plan under s. 281.348, that
23 provides for a new withdrawal to which subd. 2. would otherwise apply, may choose
24 to demonstrate, using procedures specified in rules promulgated by the department,
25 the water loss that will result from the withdrawal. If the person demonstrates that

1 the water loss would average less than 5,000,000 gallons per day in every 90-day
2 period, the state decision-making standard under sub. (5m), rather than the
3 compact decision-making standard under sub. (6), applies to the withdrawal.

4 (b) *Increased withdrawals covered by general permits.* 1. Beginning on the
5 compact's effective date, the department may not approve a water supply service
6 area plan under s. 281.348 that provides for modifying a withdrawal that is covered
7 under a general permit under sub. (4s) or s. 281.344 (4s) so that the withdrawal
8 equals 1,000,000 or more gallons per day for any 30 consecutive days over the
9 withdrawal amount as of the date that the department issued the current notice of
10 coverage under the general permit or as of the compact's effective date, whichever
11 is later, and if subd. 2. does not apply, unless the withdrawal meets the state
12 decision-making standard under sub. (5m).

13 2. Beginning on the compact's effective date, except as provided in subd. 3., the
14 department may not approve a water supply service area plan under s. 281.348 that
15 provides for modifying a withdrawal that is covered under a general permit under
16 sub. (4s) or s. 281.344 (4s) so that the withdrawal equals 10,000,000 or more gallons
17 per day for any 30 consecutive days over the withdrawal amount as of the date that
18 the department issued the current notice of coverage under the general permit or as
19 of the compact's effective date, whichever is later, unless the withdrawal meets the
20 compact decision-making standard under sub. (6).

21 3. A person who submits a water supply service area plan under s. 281.348, that
22 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,
23 may choose to demonstrate, using procedures specified in rules promulgated by the
24 department, the water loss that will result from the increase in the withdrawal over
25 the withdrawal amount as of the later of the dates under subd. 2. If the person

1 demonstrates that the resulting increase in water loss would average less than
2 5,000,000 gallons per day in every 90-day period, the state decision-making
3 standard under sub. (5m), rather than the compact decision-making standard under
4 sub. (6), applies to the increase in the withdrawal.

5 (c) *Increased withdrawals covered by individual permits.* 1. Beginning on the
6 compact's effective date, the department may not approve a water supply service
7 area plan under s. 281.348 that provides for increasing the amount of a withdrawal
8 that is covered under an individual permit issued under sub. (5) or s. 281.344 (5) so
9 that it equals 1,000,000 or more gallons per day for any 30 consecutive days over the
10 withdrawal amount as of the beginning of the current permit term, the compact's
11 effective date, or the date that the department issued a modified permit for the
12 withdrawal if the modification was subject to the state decision-making standard
13 under sub. (5m) or the compact decision-making standard under sub. (6), whichever
14 is latest, and if subd. 2. does not apply, unless the increased withdrawal meets the
15 state decision-making standard under sub. (5m).

16 2. Beginning on the compact's effective date, except as provided in subd. 3., the
17 department may not approve a water supply service area plan under s. 281.348 that
18 provides for increasing the amount of a withdrawal that is covered under an
19 individual permit issued under s. sub. (5) or s. 281.344 (5) so that it equals 10,000,000
20 or more gallons per day for any 30 consecutive days over the withdrawal amount as
21 of the beginning of the current permit term, the compact's effective date, or the date
22 that the department issued a modified permit for the withdrawal if the modification
23 was subject to the compact decision-making standard under sub. (6), whichever is
24 latest, unless the increased withdrawal meets the compact decision-making
25 standard under sub. (6).

1 3. A person who submits a water supply service area plan under s. 281.348, that
2 provides for an increase in a withdrawal to which subd. 2. would otherwise apply,
3 may choose to demonstrate, using procedures specified in rules promulgated by the
4 department, the water loss that will result from the increase in the withdrawal over
5 the withdrawal amount as of the latest of the dates under subd. 2. If the person
6 demonstrates that the resulting increase in water loss would average less than
7 5,000,000 gallons per day in every 90-day period, the state decision-making
8 standard under sub. (5m), rather than the compact decision-making standard under
9 sub. (6), applies to the increase in the withdrawal.

10 (d) *Providing prior notice.* The department may not approve a water supply
11 service area plan under s. 281.348 that provides for a withdrawal described in sub.
12 (5) (L) unless the department has provided notice as required under sub. (5) (L) at
13 least 90 days before approving the water supply service area plan and has provided
14 a response to any comment received.

15 (e) *Regional review.* The department may not approve a water supply service
16 area plan under s. 281.348 if a majority of the members of the regional body request
17 regional review of a withdrawal described in s. 281.343 (4h) (a) 6. provided for in the
18 plan unless the department complies with sub. (5) (m).

19 **(5m) STATE DECISION-MAKING STANDARD.** A proposal meets the state
20 decision-making standard if all of the following apply:

21 (a) The amount of the withdrawal or increase in the withdrawal is needed to
22 meet the projected needs of the person who will use the water.

23 (b) For an increase in a withdrawal, cost-effective conservation practices have
24 been implemented for existing uses of the water, as required under rules
25 promulgated by the department under sub. (8) (d).

1 (c) The applicant has assessed other potential water sources for
2 cost-effectiveness and environmental effects.

3 (d) Cost-effective conservation practices will be implemented to ensure
4 efficient use of the water, for a new withdrawal, or of the increased amount of an
5 existing withdrawal.

6 (e) One of the following applies:

7 1. No significant adverse environmental impacts to the waters of the state will
8 result from the new or increased withdrawal.

9 2. If the withdrawal is from a surface water body, the applicant demonstrates
10 that the withdrawal will not result in the violation of water quality standards under
11 s. 281.15 or impair fish populations.

12 3. The department has issued a permit under s. 30.18 for the new or increased
13 withdrawal or has issued a permit under s. 30.12 for a structure that will be used for
14 the new or increased withdrawal.

15 4. The department has issued an approval under s. 281.34, or s. 281.17, 2001
16 stats., for the new or increased withdrawal.

17 **(6) COMPACT DECISION-MAKING STANDARD.** A proposal meets the compact
18 decision-making standard if all of the following apply:

19 (a) All of the water withdrawn from the Great Lakes basin will be returned to
20 the source watershed, less an allowance for consumptive use.

21 (b) The withdrawal will result in no significant adverse individual impacts or
22 cumulative impacts to the quantity or quality of the waters of the Great Lakes basin,
23 to water dependent natural resources, to the source watershed, or, if the withdrawal
24 is from a stream tributary to one of the Great Lakes, to the watershed of that stream.

1 (c) The withdrawal will be implemented in a way that incorporates
2 environmentally sound and economically feasible water conservation measures.

3 (d) The withdrawal will be in compliance with all applicable local, state, and
4 federal laws and interstate and international agreements, including the Boundary
5 Waters Treaty of 1909.

6 (e) The proposed use of the water is reasonable, based on a consideration of all
7 of the following:

8 1. Whether the proposed withdrawal is planned in a way that provides for
9 efficient use of the water and will avoid or minimize the waste of water.

10 2. If the proposal would result in an increased water loss, whether efficient use
11 is made of existing water supplies.

12 3. The balance of the effects of the proposed withdrawal and use, and other
13 existing or planned withdrawals and water uses from the water source, on economic
14 development, social development, and environmental protection.

15 4. The supply potential of the water source, considering quantity, quality,
16 reliability, and safe yield of hydrologically interconnected water sources.

17 5. The probable degree and duration of any adverse impacts caused or expected
18 to be caused by the proposed withdrawal and use, under foreseeable conditions, to
19 other lawful consumptive uses or nonconsumptive uses of water or to the quantity
20 or quality of the waters of the Great Lakes basin and water dependent natural
21 resources, and the proposed plans and arrangements for avoidance or mitigation of
22 those impacts.

23 6. Any provisions for restoration of hydrologic conditions and functions of the
24 source watershed or, if the withdrawal is from the stream tributary to one of the
25 Great Lakes, of the watershed of that stream.